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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/237,099	01/25/99	GLASER	R REALNET.001C

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EXAMINER

VAUGHN JR, W

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 09/24/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/237,099

Applicant(s)

GLASER ET AL.

Examiner

William C. Vaughn, Jr.

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, 11-17 and 22, drawn to receiver establishing a data communication connection with a selected media server for computer to computer session and connection establishments and session connection parameter setting, classified in class 709, subclasses 227 and 228.
- II. Claims 9, 10 and 18-21, drawn to a proximate server map and a proximate server for communicating with a media server with a PC and data packet including a request message transmitted from a PC to a proximate server, classified in class 709, subclass 217 and 219.
- III. Claims 23-29, drawn to a media communication system that has media server providing audio data for real-time playback and a plurality of compressed audio data clips and a CPU that decompresses audio data output an audio driver circuit which receives decompressed audio data and an audio speaker or audio transducer and a media communication system that transmits flow control information that contains stop markers and acknowledgement markers, classified in class 709, subclass 232, 234 and 247.

Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a receiver establishing a data communication connection with a selected media server for computer to

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computer sessions, but lacks a proximate server map and a proximate server for communicating with a media for communicating with a media server with a PC and a data packet including a request message transmitted from a PC to a proximate server as well as a media communication system that has a media server providing audio data for real-time playback and a plurality of compressed audio data clips and a CPU that decompresses audio data output an a audio driver circuit which receives decompressed audio data and an audio speaker or audio transducer and a media communication system that transmits flow control information that contains stop markers and acknowledgement markers. Invention II has separate utility such as a proximate server map and a proximate server for communicating with a media for communicating with a media server with a PC and a data packet including a request message transmitted from a PC to a proximate server, but lacks a receiver establishing a data communication connection with a selected media server for computer to computer sessions as well as a media communication system that has a media server providing audio data for real-time playback and a plurality of compressed audio data clips and a CPU that decompresses audio data output an a audio driver circuit which receives decompressed audio data and an audio speaker or audio transducer and a media communication system that transmits flow control information that contains stop markers and acknowledgement markers. Invention III has separate utility such as a media communication system that has a media server providing audio data for real-time playback and a plurality of compressed audio data clips and a CPU that decompresses audio data output an a audio driver circuit which receives decompressed audio data and an audio speaker or audio transducer and a media communication system that transmits flow control information that contains stop markers and acknowledgement markers, but lacks a receiver establishing a data communication

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connection with a selected media server for computer to computer sessions as well as a proximate server map and a proximate server for communicating with a media for communicating with a media server with a PC and a data packet including a request message transmitted from a PC to a proximate server. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art shown by their different classification as well as their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Group I search (Claims 1-8, 11-17 and 22) would require use of search of class 709, subclasses 227 and 228 (which would not be required for Groups II and III).

Group II search (Claims 9, 10 and 18-21) would require use of search of class 709, subclasses 217 and 219.

Group III search (Claims 23-29) would require use of search of class 709, subclasses 232, 234 and 247.

A telephone call was made to Arthur S. Rose on September 18, 2001 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-5:00, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (703) 305-4815. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 (for **"Official"** communications) or (703) 746-7238 (for **"After Final"** communications) and (703) 746-5488 (use this Fax number only after approval by Examiner, for informal or draft communications. Please label **"Proposed"** or **"Draft"**).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

WCV
WCV
Patent Examiner
Art Unit 2152
September 19, 2001



ROBERT B. HARRELL
PRIMARY EXAMINER